

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No. 112 of 2005
in
Arbitration Petition No. 518 of 2004

Reshma Irfan ..Appellant

vs.

Parth Share & Stock Brokers
Pvt.Ltd. (In liquidation) ..Respondents

Smt.S.P.Kumbhat i/b Shri K.K.Tated for appellant.
None for respondents.
Mr.S.C.Gupta, Official Liquidator present.

CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
7th March, 2005

P.C.

1. We have heard the learned Counsel for the appellant. Perused the award of the learned Arbitrator. Learned Arbitrator has come to the conclusion that bills produced by the appellant are not genuine and the same have been generated by the broker merely with a view to give financing transactions the colour of share trading transactions. Relevant discussion on this aspect is reproduced below.

"A. The appellant has produced a copy of her ledger account and the relevant bills before the lower Tribunal.

B. A scrutiny of the Bills submitted reveals the following anomalies.

The appellant has produced a Bill no.A/007/0031 dated 7th April, 2000 in respect of settlement period from 08/05/2000 to 12/05/2004 and bill no.A/08/0028 again dated 7th April, 2000 for the period 15/05/2000 to 19/05/2000. We note that the both the above bills namely for Settlement No.A/7 and A/8 are predated by nearly one month where actual transactions have taken place during the period between 08/05/2000 to 12/05/2000 in case of Settlement No.A/7 and between 15/05/2000 to 19/05/2000 in case of Settlement No.A/8.

C. Since the two bills referred to above are ostensibly dated at least a month before the date of the relevant transactions, we are of the considered opinion that the bills are not genuine and have been generated by the Respondent broker with a view to accommodating the Appellant.

D. Looking at the totality of the circumstances viz. non matching of the Trade Id files, the absence of delivery of

shares, the lack of correlation between the bills and the amounts paid by the Appellant as well as the inexplicable excess "advance payment", this Tribunal is of the considered opinion that the bills produced by the Appellant are not genuine and that the same have been generated by the Respondent broker merely with a view to give financing transactions the colour of share transactions."

The above finding is based on the material produced on record and it is not permissible for this court to reappreciate the factual aspect for decision under sec.34 of the Act.

2. Appeal is dismissed.